

**VOLCANO MARSHALL
RELEASED ON BAIL**

Appears Before Judge
Estee on Habeas
Corpus.

THE QUESTION OF JURISDICTION
WILL BE THOROUGHLY ARGUED
BY MANY MEMBERS OF
THE BAR.

Some History of the Now Ce-
lebrated Case Together with
the Article Com-
plained Of.

William H. Marshall was released yesterday from Oahu prison on a nominal bond of \$100, pending the battle of lawyers in the United States court over the question of the jurisdiction of that court in habeas corpus proceedings in the case.

Attorney General Dole of the Territory of Hawaii and J. C. Baird, United States district attorney, will be in the case as amici curiae. W. O. Smith will represent the Judd heirs and J. T. De Bolt the defendant.

When Geo. D. Gear yesterday morning asked the court for permission to appear in the case as amicus curiae, Judge Estee said that an invitation is extended to the entire bar of Honolulu and the islands to take part in the case, both in argument and briefs. The gates of advice from the legal fraternity are thrown wide open and if any lawyer has theories about this case celebre and fails to present them next Tuesday he should forever hold his peace if the result of the deliberations are not in accord with his views.

The habeas corpus proceeding of W. H. Marshall was first thing on the docket yesterday morning when Judge Estee opened the court. In reply to the question of the judge if a return to the writ had been made, Clerk Mallard replied that there had, and Attorney General Dole, appearing for High Sheriff Brown, was asked to read it. The return with a copy of the mittimus attached was then read by Mr. Dole as follows:

"In the district court of the United States of America, in and for the Territory of Hawaii: In the matter of the petition of William H. Marshall for a writ of habeas corpus. Respondent's return: Arthur M. Brown, the respondent named in the petition for writ of habeas corpus, filed herein, for return thereof says: That he is the high sheriff of the Territory of Hawaii, and as such is responsible for the custody, control and safe keeping of all prisoners committed to his custody by the courts of the Territory of Hawaii; that the said William H. Marshall is now and has been since the 9th day of October, A. D. 1900, detained and confined in the Oahu jail under and by authority of a certain mittimus to the said high sheriff directed, a copy of which is hereto attached and made a part hereof."

The return is signed by A. M. Brown, high sheriff, Territory of Hawaii, and sworn to by him before George Lucas, clerk of the supreme court.

The mittimus is directed to "The Marshal of the Hawaiian Islands or his Deputy," and sets out Marshall's conviction in the circuit court for the offense of publishing a libel in the first degree committed on or about August 27, 1899, by publishing in the "Sunday Volcano" of that date a libel on Chief Justice Judd, of which a copy in these words is set out:

"A young man in years, faltering in judgment, lame in ideas, has been driven over the Pali; a man who saw no good but that which was mirrored in himself has been driven over the Pali; a man as changeable as the wind has been driven over the Pali; a thing, a creature, a cringing reptile of greed and spoliation has been driven over the Pali; a man who knew no law but policy has been driven over the Pali; a man who in every case of litigation involving wealth against poverty decided in favor of wealth has been driven over the Pali, there to remain forever."

"A. F. Judd's mind is a vacuum and he is rapidly becoming a gibbering idiot. From the first he recognized no opinion nor obligation inconsistent with those in power. He was everything for a time and nothing long. In his time he played many parts and played them poorly. In order to remain in power he was a sycophant to every fallacy."

"Tomorrow, to gain the speaking recognition of this paper, he would sacrifice his manhood, eye, even surrender his robes of office."

"He is over the Pali, and on his face is the picture of despair."

"The country and the Volcano is through with A. F. Judd. Let him die in peace."

"Chief Justice Judd is a man of retiring habits. He is over the Pali."

"Where is your chief justice a man not possessing one sixteen hundredth part of the honor of Pontius Pilate? He is over the Pali."

After the reading of the return, the court said: "This is a matter of great concern and the first thing we must see is the question of this court's jurisdiction. Of course, it would not have issued the writ in the first place if it had not believed it had jurisdiction, but we must make sure. It is a very serious proposition for this court to stand as an appellate court, and it does not, but where a primary ground is shown for issuing a writ of habeas corpus, as has been done, the duty of this court is plain."

The attorneys were then interrogated by the court as to their wishes regarding the time for argument on the ques-

tion of jurisdiction. Attorney General Dole spoke on the matter of releasing the defendant on bail pending the settlement of the question of jurisdiction. He said that, in order to give counsel time to prepare their arguments and the court leisure to come to a decision, he favored releasing the prisoner on a nominal bond of \$100, satisfactory to the United States district attorney, not forgetting to admonish Mr. Marshall to make his appearance at all hearings of the case.

The court then ordered that the defendant be released on filing a bail bond of \$100, satisfactory to the United States district attorney, not forgetting to admonish Mr. Marshall to make his appearance at all hearings of the case.

A satisfactory bond was shortly presented to the United States attorney, with Chas. S. Desky as security, and Mr. Marshall spent yesterday in his home or upon the streets talking to friends of his late unique experiences.

The contention of the defendant is that he was illegally imprisoned because he was put upon trial for an infamous crime without indictment by a grand jury, contrary to the fifth amendment of the constitution of the United States, and that the verdict was agreed to by only nine of the twelve jurors, contrary to the sixth amendment of the constitution, and further that the defendant did not plead to the charge against him on his trial in the circuit court.

MAY AFFECT HAWAII.

Bulling on Status of Deputy Marsh-

als in Porto Rico.

WASHINGTON, Oct. 4.—Mr. Tracewell, the comptroller of the treasury, has rendered a decision as to the payment of court expenses and compensation of United States deputy marshals connected with the United States district court of Porto Rico, the disposal of the funds earned by them, to what authority the marshals should report and account for the disbursement of funds coming to their hands, and the use and supply of books and blanks needed for his office. These questions involve an interpretation of that part of the Porto Rico act relating to the courts of the island. The comptroller holds that the Porto Rican act differentiates this court from other United States district courts, either in the states or territories, and that the salaries of its officers, including deputy marshals, shall be paid out of the Porto Rican treasury; that the expenses of all these officers shall be paid out of the Porto Rican treasury, and also that all fees earned by them are to be accounted for and reported to the United States. But one class of deputy United States marshals, the comptroller decides, is privileged to be appointed by the Porto Rican court, namely, a class to be paid out of the treasury of Porto Rico.

The comptroller of the treasury further decides that all operating expenses of the court shall be paid by the United States; that the fines, costs and fees charged and collected by the marshal should be paid into the treasury of the United States; that the marshal should report to the attorney general of the United States and account to the accounting officers of the United States; that the deputy marshals shall be paid their compensation from the Porto Rican treasury, and that the department of justice is required to furnish the United States marshal with all necessary blanks for his office.

ROOSEVELT IN NEBRASKA.

Takes Poynter to Task for Calling

Regular Soldiers Hirelings.

BASSETT, Neb., Oct. 4.—A troop of mounted cowboys and citizens of the town collected this morning at the depot to greet Governor Roosevelt. He made the usual plea to his audience, to "vote to uphold not only the cause of our material well-being, but the cause of the honor of the American flag."

At O'Neill a stop of 15 minutes was made. Governor Roosevelt said in part: "The other day at Lincoln I stated that Governor Poynter had been reported as having spoken of the regular United States soldiers as '15 a month hirelings.' He has denied that he has ever made such a statement, attributing to me the word 'hireling,' which I never used. He was reported in the press as having made such a statement, but Mr. Dietrich and Mr. Steuwer, now running on the republican state ticket, heard him make use of those words in the latter part of August at an old settlers' picnic at Dakota City. In the latter part of September, at Superior, Minn., Dietrich, Proust, Savage and Steuwer all heard him make the same statement in a slightly different words."

"I was glad enough to have these 'hirelings' on either side of my regiment. We were none of us in a mood to pay much attention as to whether a man was a volunteer or a regular—white man or colored. The 'hirelings' at Santiago left between 1,300 and 1,400 of their killed and wounded. The mould is fresh on the graves of those 'hirelings' who lay in the Philippines. Have they not deserved well of their country? I ask you who American citizens to stamp your disapproval on all who sneer at such men, who put upon them slight and slander. I have answered the statement of Governor Poynter and have given names and dates. I do not make any statement I cannot stand by."

No Shut Down with Them.

PHILADELPHIA, Oct. 4.—It was stated by President Reilly of the Lehigh Coal & Navigation company today that ten collieries they operate in the Panther creek valley adjoining the Hamilton district are working today except the colliery at Coaldale which is shut down temporarily because of a break in the machinery.

**OLD SAMOAN CUSTOMS
VIGOROUSLY BROKEN UP**

Chiefs Must Now Con-
form to American
Laws.

SPECIAL PRIVILEGES WIPED OUT

PRACTICAL LESSON IN EQUAL-

ITY AND JUSTICE TAUGHT

CHIEF LETULI.

No Fish Sacred to Chiefs That May

Not Also Be Eaten by

the Lowly Na-

tives.

The American officers on the island of

Tutuila, Samoa, are ruling with a firm

hand and are making the enforcement

of old rules and customs, when of a de-

grading or superstitious character, rather

unpopular. Recently Letuli, a county

chief, violated his pledges and he was

tried before a high court, of which

Commander B. F. Tilley, U. S. N., com-

mandant of the United States naval

station was president.

Letuli was charged as follows:

First—Abuse the authority vested in

him by the authority of the United

States government as county chief.

Second—Incite his people to commit

acts of violence against one Fagina, a

resident of his county, and to do other

lawless and rebellious acts.

Third—Disregard the authority of the

government of the United States naval

station, Tutuila.

After a trial lasting seven days, during

which a large amount of testimony was

taken relative to Samoan customs, the

president of the court delivered the fol-

lowing judgment, in which all the mem-

bers concurred:

This case is of the most vital im-

portance to the interests of the govern-

ment of the United States in Tutuila; and

Manua and to the welfare of the Sa-

moans now under its protection and sov-

ereignty. For this reason the high court

has given to it a most careful and ex-

haustive investigation. Through the con-

flicting testimony of some of the wit-

nesses it has been difficult to get at all

the facts of the case, but the court is

satisfied that the following facts are well

established: First, the accused, Letuli,

a county chief of Tutuila, duly appointed

under the authority of the United

States government, was a strong ruler,

having full authority over his people,

who stood in fear of him. Second he had

taken the oath of allegiance to the United

States and knew the law, which had been

explained to him. Notwithstanding this

he deliberately ignored the law and arbi-

trarily imposed a fine upon one Fagina,

without referring the matter to the

proper court. Third, with an apparent

animus against Fagina, the accused per-

mitted the people of his own village,

Illi, to commit acts of violence against

him for what he thought to be an of-

fense against himself. It is evident that

he knew the law but tried to evade the

consequences of violating it. Fourth, he

told his people to drive Fagina out of

his house and to take away his goods; he

forbade Fagina to again enter his house

or to fish in the sea. Fifth, he told the

people of Illi to kill two of Fagina's

pigs and to bring them to Illi. This was

done and Letuli received the chief's por-

tion of them. Sixth, he failed to report

any of these matters to the governor of

his district and when officially called to

account for his acts, spoke disrespectfully

of the governor and showed much anger

and resentment towards him. All of

these acts show on the part of Letuli a

personal spite towards Fagina and an

intention to ignore the laws and punish him according to his own will and without even reporting the matter to the proper authority. The only excuse offered is to plead a custom which prevailed many years ago, but has not been observed recently.

Although not stated in the evidence before this court, it is a notorious fact that when the commandant's order No. 5, prescribing the form of government for Tutuila, was first published, the accused, Letuli, came to the commandant and made a strong and impudent protest against it, advocating such customs as have been practiced by himself and his people in the case of Fagina. For this he was severely rebuked by the commandant and informed that the authority of the United States would be maintained in Tutuila by force if necessary.

It is not the wish of the court to do away with the many good customs of the Samoans. Their customs of giving food to chiefs with aloha and of showing them much respect and courtesy are most commendable. The dignity with which they conduct their "fonos" and the great consideration which they show to each other on most occasions are also much to be praised. The chiefs perform important official duties which occupy their time and the people must continue to carry food to them according to custom and to show them every respect. While the laws of the United States will protect every resident of Tutuila in his personal rights, any deliberate neglect of a service or courtesy to a chief, which has become a duty by custom, will be punished.

The whole point at issue in the present case is that Letuli deliberately ignored the law and inflicted unusual punishment upon a man who failed to report them. This shows him to be of a rebellious nature and unfit for the position of independent authority which he has held under the government of the United States.

The court, after maturely considering all the evidence in the case, finds: Letuli, chief of the county of Tutuila, is

the district of Falelima West, of the first charge, guilty, of the second charge, guilty, and of the third charge, guilty. And the court does therefore sentence the said Letuli, county chief of Tutuila, to be removed from his office of county chief by the commandant of the naval station, Tutuila, and to be confined on parole and under bonds satisfactory to the commandant within the limits of Paopago bay, under observation of the governor of the district of Falelima East, or in such other place as the commandant may direct, and forbidden to visit the limits of the county of Tutuila for the term of six months or longer, if considered necessary by the commandant.

Second—Should the prisoner elect to reside permanently outside the limits of the United States naval station, Tutuila, he may be permitted to do so at the discretion of the commandant.

Third—The costs of this trial amounting to \$75, shall be defrayed by the said Letuli within the next thirty days.

Schooner and Barkentine.

The Nocu reports sighting the ship Great Admiral, the bark R. P. Rithet and the Carrier Dove and Diamond off Kaua point yesterday afternoon. The two last named vessels were within a hundred yards of each other and racing. They were headed so as to pass north of the island of Kauai without touching and each had all sails set. The Diamond seemed to be getting the best of the schooner. A salute was exchanged between the Nocu and Great Admiral, as Captain Wyman of the steamer and Captain Sterling of the Great Admiral are old shipmates. The Rithet was way to the south.

Singers Returning.

Phil Branson and Tillie Salinger, who were here some time ago with the Southwell Opera company, were through passengers in the Alameda yesterday.

**THE YOUNG WOMEN IN
THEIR NEW HOME**

BRILLIANT RECEPTION GIVEN

BY MEMBERS OF THE

Y. W. C. A.

Three Hundred Women Attended the

Dedication Last Night in

the Parlors in Pro-

gress Hall.

Over three hundred ladies were present at the Y. W. C. A. reception at the new parlors of the association in the Progress building last evening.

The new home of this splendid organization of ladies is an inviting place. It is fitted with every comfort and last evening was decorated beautifully with palms and crotons. The decorations were done under the direction of Miss Wheeler and Miss Hitchcock. Everything in the spacious halls looked new and bright. Curtains, rugs, couches and pictures and various bric-a-brac selected and arranged under the direction of feminine eyes, made a brilliant setting for the company of women who were at the reception last night.

The program consisted of music. Miss C. Hyde rendered a piano solo, Mrs. C. B. Cooper sang and Miss Phillips and Frazier made some pretty music on mandolin and guitar.

Because of the illness of Miss Bacon the company was denied the pleasure of witnessing the announced exhibition of Indian club swinging and bar bell exercises. Miss Bacon, however, states that she will be on hand Monday morning at the gymnasium to take care of her classes.

Delectable grenade punch was made and served by Mrs. Phillip Frear. Mrs. Petrus and the Misses Whitfield.

The printed announcements of the association give a complete outline of the scope of the work as conducted by the women of Honolulu.

The rooms of the association on the third floor of Progress block are open every week day from 9 a. m. until 5:30 p. m. They are also kept open Monday, Tuesday and Thursday evenings. Any women lunching down town are invited to bring their lunches to the rooms at the noon hour. Ice water is always served and tea and chocolate will be on demand. The rooms are also at the disposal of women as a parlor for meeting friends or for places of rest.

The physical department is under the direction of Miss Lillian Bacon, who comes here from Montreal with the highest recommendations. In McGill university, Miss Bacon holds the championship in physical work for women. The aim in this department is to develop the body symmetrically and to give healthful recreation.

The educational classes are an attractive feature of the association. Members are fortunate in being able to avail themselves of a course of Tennyson's lectures by Mrs. W. F. Frear. Eight lectures will be given before Christmas, beginning Saturday morning, October 27. There is also a travel club studying Holland, which meets Tuesday evening at 7:30. Bible classes and meetings for women are among the regular features of the year.

Oahu Pump.

The new pump for Oahu plantation arrived in the Irrigard yesterday.

Engagement Announced.

The engagement of Miss Edna Goodell, daughter of New York city, and David F. Morton of Pawtucket, R. I., is announced. Both parties are now in Honolulu. Miss Morton having been here for nearly a year and being much of a favorite in society circles. Mr. Morton has been here only a few months, but has made many friends in that time.

**THE OAHU ALUMNI
BEAT COLLEGIANS**

An Interesting Game
That Was Largely
Attended.

ALUMNI TOO HEAVY FOR THE BOYS

A CLOSE HARD-FOUGHT GAME

IN WHICH WEIGHT ALONE

TRUMPHEO.

Story of the Battle That Was Lost

and Won on the Oahu Col-

lege Campus Yes-

terday.

The first game of the football season

was played yesterday between the Punahou alumni and Oahu college. The former team managed by sheer plunges through the line to score six points in the last five minutes of play. The final score was 6 to 0, in favor of the alumni.

The victors were much the heavier, while the college boys excelled in speed and team work. Weight triumphed, however, and the struggle was defeated in a close, hard game.

The teams lined up as follows:

Alumni—A. Waterhouse, center; Walker, left guard; A. Judd, right guard; Greenwell, Fuller, left tackles; G. Judd, left end; A. Judd, right end; Babbit, quarter; Hemenway, left halfback; Inghalls, right halfback; Fuller, Greenwell, fullbacks.

Oahu College—L. Robinson, center; A. Walker, Plunkett left guards; Perry, right guard; C. Judd, Walker, left tackles; Cruzan, Williamson, C. Judd, left end; M. Robinson, right end; Williamson, A. Marcellino, quarters; J. Marcellino, left halfback; Kaulukou, right halfback; Myers, Castle, fullbacks.

The alumni kicked off to the college, who, after several short kicks, kicked the ball out of danger. The alumni, however, found the college line invincible and were forced to surrender the ball on downs. After several more short kicks Oahu again kicked. Fuller got the ball on the twenty-yard line, but was nailed in his tracks. The alumni now tried to buck the sphere out of danger, but were forced to kick.

By steady plunging and kicking the heavier men worked the ball down past the center. Just at this point Inghalls circled the right end for twenty yards. Hemenway followed suit on the opposite side for fifteen yards more, landing the ball on the college's twenty-yard line. At this point Oahu took a brace, got the ball on downs and kicked it out of danger. The alumni snuffed a touchdown, however, and after several plunges they tried a drop kick for goal. Perry broke through and stopped the trick, however.

In the second half the alumni started in with a rush. After some bucking back and forth near the center of the field they kicked the ball far into the college's territory. As the ball descended it was fumbled and the alumni's end was on it like a streak. The college line held like Trojans, but they were slowly pushed back until Inghalls skirted the end for the desired five points. Fuller kicked the goal.

The college started in with a vim, but the time was too short and but very little could be done against their heavier opponents. The game ended with the ball in the center of the field.

VIGOROUS WORK FOR

HONOLULU YOUNG MEN

DESERVED PRAISE FOR THE

LOCAL YOUNG MEN'S CHRIS-

TIAN ASSOCIATION.

Review of the Work Done Here by

the State Secretary of Mas-

sachusetts and Rhode

Island.

The following deservedly complimentary review of the work of the Honolulu Young Men's Christian Association was written by R. M. Armstrong, state secretary of Massachusetts and Rhode Island, and appears in the October number of "Association Men," published at Chicago, Ill.

I had the pleasure of visiting Honolulu this summer, and was agreeably surprised at the prosperous condition in which I found the Young Men's Christian Association of that city. Before I left home a gentleman who had spent several years on the islands urged me to render what assistance I could to this organization, and spoke of this organization as a missionary enterprise. After visiting the association and enjoying its hospitalities, I was convinced that in stead of its being a field for missionary work its plans and methods might be followed with profit by many of our own associations.

There are three associations—the main department, which is made up almost exclusively of white men, and organizations for the Japanese and the Chinese; and each association has a building of its own. The main building cost \$20,000, is all paid for and has an endowment of several thousand dollars. The membership is nearly 400. A movement is on foot at the present time to organize a department for the Hawaiian young men. Gymnasium classes and summer camps are special features in the boys' work. The current expenses of the association

are always met promptly. The educational work is well cared for from special true funds.

The very best element in the community is interested in the organization, and of the twelve directors five are prominent young business men who graduated from American colleges. The first president of the association was Governor Dole. The general secretary, H. E. Coleman, is deservedly popular. He is a man of marked executive ability, and is intensely interested in the spiritual welfare of the young men and boys of the city. Albert J. Coates of the Chicago Training School is the efficient physical director and shows marked interest in all phases of the association work. Mrs. Coleman is not only a true helpmeet to her husband, but has recently been chosen general secretary of the Young Women's Christian Association. Mr. and Mrs. Coleman are graduates of Earlham College, Richmond, Ind. It may be well said that "the three C's" are important factors in influencing the lives of the young people of Honolulu for Christ.

We deem it extremely fitting that the readers of Association Men should know of the prosperity of the association in our newest possessions.

The Chinese Branch.

(From Chinese Branch report, Honolulu Association, by its president, Goe Kim.) This Chinese Young Men's Christian Association at Honolulu was formed in 1875, for the purpose of spreading the gospel of Jesus Christ among the Chinese. At that time there were very few Chinese residents in these islands who had ever heard of God and of our Savior, Jesus Christ; but there was a good Chinese Christian, Seau Hung by name, who was the first man to preach the gospel to us at Bethel church, and who also opened a night school for the study of English. This was the beginning of the work to Christianize the Chinese in these islands.

Thereafter the members decided to hold meetings every Tuesday to study more about Jesus and his gospel. In 1878, the expenses of the association having increased, it was decided to open a crockery store for the purpose of using its profits to support the association. The upper floor we turned into a spacious hall and provided with books and magazines for the benefit of its members. In the same year we bought a burial